



Decision of the Scituate Zoning Board of Appeals on the application of Muralago, LLC c/o The Hamilton Company, 39 Brighton Avenue, Boston, Massachusetts 02134 (collectively, the “Applicant”) for a special permit / finding under M.G.L. Ch. 40A, Section 6 and Section 820 / 1020.2(D) of the Scituate Zoning Bylaws that the extension or alteration of certain pre-existing nonconforming structures and uses are not substantially more detrimental than the existing nonconforming uses to the neighborhood.

The application was timely received, advertised, and public meeting was duly held on April 29, 2009 with the following members of the Zoning Board of Appeals hearing the application:

Mr. Peter Morin
Mr. Brian Sullivan
Ms. Sara Trezise

The Applicant was represented at the public meeting by the following representatives: (i) Bernard F. Shadrawy, Jr., attorney of Shadrawy & Rabinovitz; (ii) Carl Valeri of The Hamilton Company; (iii) Stephen Weinig of Hamilton Construction Management Corp.; and (iv) Robert Brooks, Attorney.

The subject property identified in the application is known as Unit 1 of the Welch Company Condominium located at 146 – 164 Front Street, Scituate, Massachusetts. Unit 1 of the said Welch Company Condominium consists of (i) a building located at 146 Front Street, Scituate, Massachusetts, (ii) a building located at 162 Front Street, Scituate, Massachusetts, (iii) a building located at 164 Front Street, Scituate, Massachusetts, and (iv) a building known as the “Cable Building”, together with appurtenant rights as set forth in the Condominium Master Deed and the Master Plans. The application concerns alterations to the buildings located at 146 and 162 Front Street only (collectively, the “Premises”), and the Applicant does not seek zoning relief for the two remaining buildings of said Unit 1, or to any other units of the Welch Company Condominium.

The Applicant’s representatives explained that the Applicant previously obtained a Site Plan Waiver from the Scituate Planning Board to replace an existing greenhouse structure on the exterior rear of the building located at 146 Front Street and to replace it with a traditional style gable roof. The Applicant’s representatives explained that the Applicant filed this application for zoning relief to enable it to implement such alterations because the buildings which comprise the Premises are pre-existing nonconforming structures dimensionally. Specifically, the Applicant proposes to alter the dimensionally nonconforming structures of the Premises as follows: (i) to remove the existing

greenhouse glass structure; (ii) to demolish selective areas of the existing roof structure; (iii) to re-side certain exterior areas to match existing shingle style; (iv) to install new windows; (v) to demolish certain selective non-structural interior areas; and (vi) to replace a handicap ramp with an ADA compliant ramp (collectively, the “Proposed Project”).

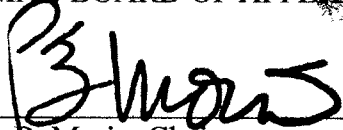
The Scituate Board of Selectmen recently approved an all alcoholic beverages license for a proposed tenant of the building located at 146 Front Street. Evidence and arguments were presented to the Board of Appeals by interested parties in attendance that the said previous uses of 146 Front Street did not include any restaurant uses, and that any changes of uses to the building located at 146 Front Street would require zoning relief and the issuance of a Site Plan Special Permit by the Planning Board. In response to these arguments, the Applicant clarified that it was not seeking a special permit/finding to extend, change, or alter pre-existing nonconforming uses of the Premises, but that it was seeking a special permit/finding to allow for the Proposed Project which requires some alteration only to the pre-existing nonconforming dimensional structures of the Premises. The Applicant’s representatives acknowledged and agreed that further relief from the Board of Appeals and other municipal boards including the Planning Board would be required if the Applicant seeks to change, alter, or modify pre-existing, nonconforming uses of the Premises.

The Board also discussed the parking situation at the Welch Company Condominium which does not comply with Section 760 of the Scituate Zoning Bylaw, and addressed the fact that, in certain circumstances, the amount of required on-site parking is dependant on the uses of the Premises. Attorney William H. Ohrenberger, III, who represents S.C.W. Corporation, the owner of The Mill Wharf Restaurant, questioned whether the number of parking spaces at the Welch Company Condominium is grandfathered for the Applicant, appropriate for the Applicant’s proposed or contemplated changes in uses of the Premises, and/or abandoned or not used for a period of two years or more by the Applicant. The Board declined to address such issues at the advertised public hearing because the Applicant’s representatives reiterated that the Applicant was solely seeking approval for alterations to the said nonconforming structures, and that the Applicant was not seeking zoning relief as to the present or proposed uses of the Premises or as to the parking spaces at the Welch Company Condominium. The Applicant’s representatives acknowledged and agreed that it would be necessary for the Applicant to obtain further zoning and other relief pertaining to future proposed uses of the Premises, including but not limited to, restaurant uses. The Applicant’s representatives and the Board further acknowledged and agreed that the Applicant would have to analyze existing and required parking, determine how many (if any) parking spaces are legally grandfathered, and demonstrate whether there was adequate parking for any of the proposed or modified uses.

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Based upon the information presented at the public hearing, the Board unanimously voted to grant the Applicant a special permit/finding to allow for the Proposed Project.

ZONING BOARD OF APPEALS



Peter B. Morin, Chairman



Brian B. Sullivan



Sara J. Trezise

File with the Town Clerk on: July 2, 2009

This Special Permit will not become effective until such time as an attested copy of this decision has been filed with the Plymouth County Registry of Deeds after the appeal period of twenty (20) days.

Appeal of any decision of the Zoning Board of Appeals may be made pursuant to M.G.L. Chapter 40A, Section 17, and shall be filed in a court of competent jurisdiction. Proof of that filing shall be provided to the Town Clerk within twenty (20) days of the date of the filing of the decision with the Town Clerk.

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